

## **Affidavit Template for Pro Se Asylum Seekers**

For asylum cases based on sexual orientation and/or gender identity, we need to establish: The asylum seeker is a member of the LGBT+ community and how they define that membership, that they suffered past harms rising to the level of persecution, who harmed the asylum seeker and why they harmed them (nexus), that the police/government are unwilling or unable to protect the asylum seeker, they cannot relocate safely and reasonably within their home country, and they have a well-founded fear of persecution if they returned.

These eligibility criteria are more fully discussed in each section below. To note, the question of “why” the harm was committed is one of the most important parts of an asylum claim. We have to show that the asylum seeker is part of a protected group (race, religion, nationality, political opinion, and/or membership in a particular social group) and this is why the harm happened to them. It is not enough to establish that asylum seeker suffered harm or that the asylum seeker is part of a protected group. We must show that asylum seeker was harmed **because of** membership in that protected group.

### **Tips for Working on the Asylum Seeker’s Affidavit**

1. Take your time and ease into more difficult topics. While we are working at a quick pace to complete these affidavits on time, allow the asylum seeker to become comfortable with you before asking questions about past harms. Start with the easy biographical questions. As you move into more difficult questions, make sure the asylum seeker understands why you are asking each question and why you need so many details.
2. Allow them to tell you in their own words what happened to them. This is not the place to make out legal arguments and cite to country conditions, unless the asylum seeker has specific knowledge of such facts. Try to take verbatim notes to capture the asylum seeker’s tone and language. When working with a translator, keep it to thirty-second clips so the translator can interpret verbatim. Explain this to the asylum seeker /translator before you start your work.
3. You should use the questions as prompts or guidance, rather than as a script, to help detail the asylum seeker’s life. Take your time with each section to ensure that the asylum seeker is being as descriptive as possible. For example, if the asylum seeker was bullied in school because of their sexuality, it is more impactful to write, “The other students called me names like \*\*\*\*\*. They also punched me in the stomach and tripped me” rather than just stating, “the other students bullied me.” If a question or a section is not relevant to the asylum seeker’s life and experiences, you can just skip that questions/section. You don’t need to include responses in the negative.
4. Be careful when asking leading questions. Sometimes, a yes or no question can be useful to help the asylum seeker understand what kind of information we are looking for. But, we want to make sure the affidavit reflects the asylum seeker’s true experiences and they

aren't just providing the answers they feel like we expect. We want to make sure they will be able to testify consistently in Court. Credibility is extremely important.

5. Dates can often be very difficult for someone who has been traumatized to remember. If the asylum seeker is having problems with date, see if they can recall based on seasons, holidays, birthdays, location, or jobs. If they still can't remember, that is ok. Just do not guess or write down a definitive date that the asylum seeker won't remember later.
6. Remind the asylum seeker that the asylum officer or immigration judge hearing their case and reading their affidavit has likely never been to their home country and may have limited understandings about situations/locations/culture/traditions that might seem really common and obvious to the asylum seeker. Ask the asylum seeker to explain these situations to you very thoroughly as though you have no understanding of that situation, or as though they were explaining to a child. When necessary, take the lead and ask really basic and introductory questions to issues so the affidavit explains, and the judge can fully understand, the context.
7. Take breaks when you or the asylum seeker need them! Telling their stories of traumatic incidents can trigger the same response as if they are re-living them. It can also be very difficult for you to be listening to someone speak about violence. It's ok to stop, get water, walk around, or talk about something non-case related. Be cognizant of time and when your meetings are ending. Try to conclude the meetings by explaining what is next – we will talk over the phone on this day, we will meet in person next week, ask how they are feeling, what are they doing the rest of the week - small talk is not a small thing.

**Affidavit Template**

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
NEW YORK, NEW YORK

OR

UNITED STATES DEPARTMENT OF HOMELAND SECURITY  
U.S. CITIZENSHIP AND IMMIGRATION SERVICES  
ASYLUM OFFICE

-----x

In the Matter of:

NAME

DECLARATION OF  
APPLICANT/RESPONDENT

Respondent/Asylum applicant.

A# xxx xxx xxx

-----x

I, NAME, being duly sworn, affirm the following under the penalty of perjury:

**Summary of Claim**

1. My name is NAME and I was born on DATE in PLACE. This affidavit was prepared with the assistance of legal volunteers. I am fluent in LANGUAGE and it was orally translated to me in LANGUAGE before I signed it. I fully understand its contents.
2. I am applying for asylum because I am a \_\_\_\_\_ person from country. As a result of my sexual orientation/gender identity, I have been (summarize and describe examples of harms).
3. I arrived in the United States on DATE and timely filed this application for asylum.

**Childhood**

Early life

4. I was born on x date in in y place. What is the city/town like in which you were born and raised? Where were your parents from? Did they raise you? Name and describe parents/primary caretakers and siblings and other important family members.

5. Describe your daily life as a child:
  - a. What was your family's economic situation?
  - b. Did your parents work, what were their jobs?
  - c. Was your family religious? Did it influence their perception of sexual orientation and gender roles?
  - d. What was your relationship like with your family members?
  - e. Did they or your community have gendered expectations of you? That if you are a boy you must X, that if you are a girl you must X.

### Early understanding of sexuality

Purpose of this section: Describe how the asylum seeker came to define and understand their sexual orientation/gender identity. As part of their claim for asylum, they need to establish that they are a member in the particular social group ("PSG") of "LGBT+ from COUNTRY." They will be asked questions regarding when they first realized that they are LGBT+, how they define their sexual orientation/gender identity, how they started to understand that, to whom they disclosed their sexual orientation/gender identity, and first relationships.

6. Where and when did you first start noticing that you were "different"?
  - a. What kind of activities did you like, dress up, play with dolls, play soccer? Were those not the accepted activities for your sex growing up?
  - b. Did you dress differently from others of the same sex?
  - c. Did people comment on the way you spoke or moved your body?
7. Describe the first time you realized you were attracted to the same sex.
  - a. Did you have a crush on a teacher, a classmate, a neighbor?
  - b. How did you feel when your friends discussed dating the opposite sex? Did you feel uneasy? Indifferent to the opposite sex?
  - c. Did you know anyone that was LGBT+? How did knowing or seeing them make you feel?
  - d. Did you ever see a movie or something on the internet about being LGBT+? How did that make you feel?
  - e. Did you ever tell anyone you liked the same sex? If no, why not? Did you think it was taboo, that people would hurt you? Did you hear comments about LGBT+ people?
8. Describe your early school experience.
  - a. Bullying at school
    - i. Did you play with mostly boys or girls?
    - ii. Did you enjoy going to school?
    - iii. Were you bullied in school? If yes, what does "bullying" mean to you? Describe specific examples to connect the harm that you suffered to your sexual orientation.
    - iv. Were you ever physically harmed or called names by other students? How did teachers treat you? Did the teachers know you were being harmed in this way? Did they protect you? If no, why not?

- v. Did you have any friends or teachers who defended you?
9. Covering up your sexuality/gender identity.
- a. Did you suppress any signs of your sexuality/gender identity? Did you try to walk, talk, or dress in a more ‘masculine’ or ‘feminine’ way?
  - b. Did you ever date someone of the opposite sex, even though you were not romantically interested in them?
    - i. If yes, for how long?
    - ii. Why did you start dating? Because of pressure from friends/family? Because you wanted to seem ‘normal’?
    - iii. How did it feel to you?
    - iv. Did you have intimate relations with them? How did that feel?
    - v. Are you still in touch with these people? Did they know or do they know now of your sexuality?

### **Child Abuse (if applicable)**

Purpose of this section: Oftentimes, children who appear “different” are targeted by abusers. It is important to describe how the asylum seeker’s nontraditional sexuality/gender negatively impacted them starting from an early age

10. Describe the incident (or one of the most vivid incidents) in detail.
- a. Who abused you?
  - b. What was the setting in which it happened?
  - c. How old were you?
  - d. Do you think it was related to your sexuality/gender, or that you were “different” in the abuser’s eyes? If yes, explain why.
11. If it was an incident of sexual abuse:
- a. What were you penetrated with or forced to touch?
  - b. Were there injuries? Describe feelings of pain and injury in detail.
  - c. Did you go to the hospital?
  - d. Did you ever have to go to a doctor afterwards?
12. For how long did the abuse continue?
- a. Did the person remain in your life and act different towards you because of the abuse? Did they threaten to harm you or your family if you disclosed?
  - b. How did the abuse affect you, as a child and through to your adulthood? Were you withdraw, anxious, not wanting to go outside?
  - c. Did you ever tell anyone? Why or why not - for example, were you ashamed?
  - d. Did you ever report to the police? Why or why not?

## Adult Life

Purpose of this section: To describe the different forms of harassment, discrimination, and verbal, physical, and sexual violence that the asylum seeker suffered as a result of their sexuality/gender at work, home, and in public. As they answer these questions and describe examples of the harms they have experienced, you want to ensure that they are connecting each instance of harm to their sexuality/gender - showing that the harm happened to them because of their sexuality/gender.

### 13. Leaving home

- a. Did you leave your home for another, bigger city?
- b. Were you kicked out of our house by your family? If so, where did you live? With a friend?
- c. How did it feel to leave your city of origin?
  - i. Were you able to be more 'out' in the new city?
  - ii. Did you start dressing or acting differently than when you lived elsewhere and was around family?
  - iii. Did you start meeting more LGBT+ people or dating more?
  - iv. Or was it the same in the new place as in your childhood home?

### 14. Social life

- a. Did you feel like you had to live 'two' lives? A straight life and a LGBT+ life?
- b. Did you make any friends in the LGBT+ community?
  - i. Do you remember their names or their aliases?
  - ii. How did it feel to be friends with other LGBT+ people?
  - iii. It is helpful to include details of harms that were suffered by your LGBT+ friends/acquaintances. This can help to establish that harm against the LGBT+ community in your country is a pattern or practice.

15. Harm on account of sexuality/gender: Persecution includes death threats, non-life threatening physical violence, emotional harm, and governmental measures that compel an individual to engage in conduct that is abhorrent to that individual's beliefs (example – LGBT+ individuals having to remain closeted, engage in heterosexual relationships, etc.). When evaluating whether harms rise to the level of persecution, events must be considered cumulatively. When describing these harms, the asylum seeker will want to provide specific details as to the exact harms suffered, as well as connecting the harms to their sexual orientation/gender identity. It is not enough that the asylum seeker suffered harms in their home country. The harms must have been committed against them on account of their sexual orientation/gender identity. It is vital to explain the harms suffered and connect the harm to their LGBT+ status.

- a. Have you ever been physically harmed as an adult due to your sexuality/gender?
- b. If yes and it has happened more than once, you don't need to describe in details every single time it happened. You can provide some general statements as to the harm you suffered, but you will want to choose a few instances to describe in very specific detail to show your eligibility for asylum. One way to do this is to describe the first, worst, and last time (in your country) that you suffered harm.

- c. Where were you? What happened in the time preceding the attack? What were you doing and who were you with? What were you saying? What you were wearing?
  - d. Who attacked you – strangers or people you knew? How many?
  - e. While they attacked you, did they say anything? Be as detailed as possible
  - f. What did they do to you – punch, slap, kick, use/show a weapon?
  - g. How long did it last?
  - h. How did it end?
  - i. Did you report to the police (see questions below for how to describe interactions with the police)?
  - j. Did you receive treatment at the hospital? If yes, what happened at the hospital? What were your injuries?
  - k. Do you have copies of medical reports or can you safely obtain them? It is very helpful to have that documentary evidence in support of your claim. If they are in a language other than English, you will need to have them translated to English. If you don't have them/can't obtain them, explain why.
16. Housing discrimination: This section is helpful if the asylum seeker believes they were discriminated from housing on account of their sexuality/gender. When answering these questions, they will want to provide enough details to show that their denial of housing or eviction was because of their sexuality/gender.
- a. Was it ever difficult to find a home?
  - b. Did you share a home/apartment with a partner and had to pretend to be relatives/friends? Was it possible to rent an apartment as an openly LGBT+ couple?
  - c. Any incidents of harassment, discrimination, threats, or physical violence with your landlord or neighbors? If yes, describe in detail and connect the harm to your LGBT+ status.
  - d. What was the neighborhood like where you lived, did you feel safe? Was it a gated community and that provided some protection? If you had to return to your home country, would you be able to continue to live in that/similar community? If not, why not?
17. Work life: The asylum seeker will want to provide sufficient detail to show that the harms they faced at work was because of their sexuality/gender. For example, “I was questioned about my sexuality after a co-worker saw me kissing a man and my co-workers started calling me derogatory names for a gay man. A few weeks later, I was fired from my job, even though I was performing well and had never been told of any issues with my work performance. I believe I was fired because my work discovered that I am gay.”
- a. Were you forced into a particular job because you weren't able to finish your education or because of your LGBT+ status?
  - b. Were your colleagues ever suspicious of your sexuality/gender? If yes, why do you believe this?
  - c. Any job discrimination from employers or your boss because you are LGBT+? If yes, describe in details, connecting the harm to your LGBT+ status.

- d. Did your colleagues/employer ever confront you about your sexuality? What did they say? How did they treat you after they found out?
- e. Did it lead to a demotion or inability to be promoted? If your sexuality/gender became known in your industry, was it difficult to find another job?
- f. Were you ever fired? Do you know why, do you suspect it was related to your sexuality or rumors about it? If yes, why do you believe that? Provide the details and conversations that lead you to that conclusion.

### **Romantic Life**

Purpose of this section: The asylum seeker will need to provide details of past/current relationships in their home country and in the US. This section can also detail how it was unsafe for them to live an open and fulfilling life with their partner in their home country.

18. Describe your first experience/date with same-sex person
  - a. How did you meet?
  - b. Describe the interaction in detail (where, when, how) and how it made you feel. Highlight positives if there were some!
  - c. For how long did you see each other? Describe your experiences together – had to pretend to be friends, only saw each other in the privacy of home, publically displayed affections, etc.
  
19. Dating Apps, if applicable
  - a. Which dating apps have you used?
  - b. What was the atmosphere like on them? Were people careful, secretive? For example, did people show their faces on their profiles or use fake photos?
  - c. Describe a time you met someone on the application:
    - i. Where did you meet?
    - ii. What did you do on the date?
    - iii. What did you talk about?
    - iv. How did you two interact in public?
    - v. How did you feel on the date?
      1. Did you go to a private place afterwards to be physical?
      2. How did it make you feel?
      3. Did you continue seeing the person?
  - d. Have you ever had incidents of ‘gay hunters’ pretending to be gay men on the dating apps? Describe what happened in detail.
    - i. Where did you meet them?
    - ii. Did you feel uneasy going there? Like something was wrong.
    - iii. What happened at the location when you met the gay hunters, what they said to you?
    - iv. Did they threaten to out you, or hurt you?
    - v. Did they hurt you?
    - vi. How did you escape?
    - vii. How did this incident affect your dating life and life in general afterwards?
  
20. Long Term partners



- a. Did you have any long-term relationships and how many?
- b. For how long did you date?
- c. Where did you meet them?
- d. Were you both out when you dated?
- e. What kinds of things would you do together?
- f. How did you interact in public with them?
  - i. Did you ever touch, like hold hands or hug in public?
  - ii. Did people suspect you were together, or did you think you were just friends?
- g. Did you live together?
  - i. If so, what did you tell the landlord?
  - ii. Was it difficult to find a landlord that would rent to two men?
  - iii. How did neighbors treat you if you lived together or often went home together?
- h. Did you meet their families? Did your family know about them?
- i. Were there any incidents of domestic violence? If yes, describe in details.
- j. Are you still dating? If not, how and why did it end? Are you still in touch?

## 21. Children

- a. Do you have any children? Names and birthdays
- b. Who is their other parent?
- c. How did you have children? You adopted, you were previously in a heterosexual relationship, you had an agreement with a friend, etc.
- d. Do you have a relationship with your children now?
- e. Did your sexual orientation/gender identity threaten your ability to maintain custody over your children? If yes, describe in detail how.

## Health

Purpose of this section: To describe the impact the persecution has had on the asylum seeker's emotional well-being. Also, to discuss any medical diagnoses and the lack of treatment in their home country due to their sexual orientation/gender identity.

## 22. Mental health

- a. Did you treat with a mental health professional in your home country or in the US? If yes, provide details:
  - i. What prompted you to seek medical attention?
  - ii. What is their name?
  - iii. How often did you treat with them?
  - iv. Did they prescribe medication?
  - v. Did they provide any diagnoses?
  - vi. Do you have any record of this treatment or can you obtain it?
  - vii. Why did you stop treating with them?
- b. Have you been diagnosed with depression or anxiety?
- c. Do you take medication to relieve your mental health?

- d. Do you feel depressed or anxious because of everything that has happened to you?
- e. Any physical manifestations of this?
  - i. Do you have trouble breathing?
  - ii. Panic attacks? Nightmares? Inability to sleep?
  - iii. Have you lost a lot of weight?

### 23. HIV Diagnosis

- a. Diagnosis
  - i. When/where did the diagnosis happen?
  - ii. How did you feel when you learned about it?
  - iii. Who did you tell?
- b. Accessing treatment
  - i. Did you have difficulty finding a center to treat you?
  - ii. How long did you have to wait before receiving treatment?
  - iii. Did heterosexual people or couples get preferential treatment or access treatment faster?
- c. Treatment by staff
  - i. How did the staff at the center treat you?
  - ii. Who was your doctor? How did your doctor treat you?
  - iii. Did the staff or your doctor ever comment on your sexuality or assume your sexual orientation?
- d. Medication
  - i. How long did you have to wait to get medication?
  - ii. What was the name of the medication?
  - iii. Did you have to pay for them? Were they expensive?
  - iv. Did you have to ration them? Split them with your partner, a friend?
  - v. What were the side-effects? How did you deal with them?
  - vi. Did you ever stop taking your meds?
- e. Affect on your life
  - i. What kind of stigma were you afraid of?
  - ii. Did you tell anyone?
  - iii. How did it affect your dating life?
  - iv. How did it affect your work?
  - v. How did it affect accessing other medical care? For example, did doctors ever refuse to treat you because of your HIV?
  - vi. Did it affect your work?

### **The Government's Unwillingness or Inability to Protect**

Purpose of this section: The asylum seeker must show that the government/police in their home country was unwilling or unable to protect them.

### 24. Interactions with the police

- a. When?
- b. Where?
- c. Why? What prompted your interaction with them?

25. Did you ever file a police report?
- Did someone take you to the police department or did you go yourself?
  - Did you successfully file a report? If yes, do you have a copy of that police report or any other documents from the police that you can submit for evidence? If yes and it is in a different language than English, you will need to have translated to English. If you were unable to file the report, didn't receive any documents, or can't access copies of those documents, explain those reasons for not have this documentary evidence.
  - Did you ever receive a notice of refusal to work on the case?
  - Do you think the police actually investigated, charged, or arrested anyone in connection with your case? If yes, what was the outcome? If not, how do you know they didn't do any work and why do you believe that they didn't?
  - Did filing the report result in any investigations or arrests?
26. How did the police treat you?
- Were they aggressive, unhelpful?
  - Did they harass you?
  - What names did they call you?
  - Did they comment on your appearance or sexuality/gender?
27. Were you a victim of a crime but never contacted the police?
- If you never reported any incidents to the police, why not? Did you believe they could protect you? If not, why not? Did you have similarly placed friends/family who reported abuse to the police? If yes, what were their experiences? Did their experiences impact your decision to not report?
    - What was their reputation like in the gay community?
    - Did you think they wouldn't help or make it worse?
    - Were you scared people would find out about you being gay?

### **Relocation**

Purpose of this section: The asylum seeker must establish that they are unable to safely and reasonably relocate within their home country

- Did you ever try to live in different parts of your home country? Did you face harms in all these places?
- How are members of the LGBT+ community treated throughout your country – in both urban and rural areas?
- Do you believe there is anywhere safe you could live in your home country? Why not?

### **Travel to Other Countries**

Purpose of this section: The asylum officer or DHS will have records of the asylum seeker's past travel. The asylum seeker should provide details of travels before their final entry to the US (including previous trips to the US), the reasons for their travel into those countries, their length

of stay, their immigration status, and reasons that they didn't apply for asylum or other forms of immigration status in those countries. You want to use this section to establish that the asylum seeker was never "firmly resettled" in any other country and is not subject to any "safe third country agreements."

31. Prior travel to other countries

- a. Did you go to more western countries where LGBT+ people are safe and protected?
  - i. How did that make you feel seeing openly LGBT+ people?
- b. Why didn't you apply for asylum in the countries to which you traveled?
  - i. Was there a 'breaking point' (discussed in the section below) that happened later and *after* which you knew you had to leave?

32. Transit through other countries

- a. How did you get to the US? What countries did you travel through? How long were you in each country? Did you work, pay rent, have family, or status in any of those countries?
- b. If you applied for status in another country, what was the result of that application? Did you ever receive status in that country?
- c. If you didn't apply for status, why not? Were you not eligible? Did you not feel safe in that country?
- d. Have you ever traveled to Canada? If yes, when and why? Did you apply for status there? If not, why not? If yes, what was the decision on that application?

33. Mexico

- a. If you traveled through the southern border, how long were you in Mexico?
- b. Did you work there? Have family there?
- c. Did you apply for any status there? If yes, what was the outcome? Were you given any form of temporary status? Do you have any copies of any documents from your time in Mexico?

34. Prior trips to the US

- a. Have you ever been to the US before this final entry?
- b. When, where, and why?
- c. Why didn't you apply for asylum at that time – didn't know about asylum? Thought it was just for "political" reasons? Hoped your country would become safer? Sick family/friends? Long-term relationship?

**Decision to Flee to the US**

**Purpose of this section:** The asylum seeker should use this section to explain the moment they understood that they could no longer be safe in their home country. This could be due to one particularly violent incident, a cumulation of years of harm, a recent change in law/political parties, etc. Explain the moment you understood you couldn't be safe in your home country anymore and how you fled to the US.

35. Deciding to flee

- a. Was there an event that was the breaking point that forced you to leave your country of origin? What happened? Was it the cumulation of events? Describe your decision making process.
- b. What were you afraid would happen if you stayed in your country of origin?
  - i. That someone specifically would hurt you?
  - ii. That you wouldn't be able to live a fulfilling life with your partner?  
Describe in detail
- c. How did you get to the US?
  - i. If you entered using a tourist visa, how did you get the visa? What details did you provide on your visa application? Did you fabricate any details in order to make sure the application would be approved?
  - ii. Did you travel through Central America and request asylum at the southern border? *See* questions above about travel through other countries.

### **Life in the US**

Purpose of this section: The asylum seeker can use this section to describe their life in the US and their feelings of physical and emotional safety and that they are able to live a fulfilling, openly LGBT+ life in the US.

36. How does it feel to be in the US? In NYC?
  - a. Are you in a relationship or dating? If yes, describe.
  - b. To see openly LGBT+ people on the street, holding hands?
  - c. Are you a part of the LGBT+ community?
    - i. Do you participate in LGBT+ community or activist groups?
    - ii. Have you participated in Pride?
  - d. What are your goals?
    - i. Do you want to go to school?
    - ii. What kind of job do you want?
    - iii. Do you believe you can accomplish those goals in the US v. your home country? If yes, describe why you feel that way
  - e. HIV/AIDS asylum seekers:
    - i. How does treatment compare here to your home country?
    - ii. Is the medication better?
    - iii. How do the doctors treat you here?
    - iv. Do you feel like you can live a healthy, fulfilling life?

### **Conclusion**

Purpose of this section: The asylum seeker can use a concluding paragraph to describe their fears of return to their home country and what they believe will happen to them if they return. They can end their affidavit by requesting that the U.S. grant their application for asylum so they can remain safely in the U.S.